THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 20th November ,2006

W.P.No.17496 of 2004

Between :

Bhaskara Sai Filling Station
(Petrol Pump under IBP)
Martaru, Penumantra Mandal,
West Godavari District, rep. by its
Prop. P. Atchuta Parvathi & others … Petitioners

and

The District Collector
(Civil Supplies Wing),
West Godavari District,
Eluru & others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of respondents 1 to 4 in allowing respondents 5 and 6 to establish retail outlet nearby the 1st petitioner's petrol pump and 'No Objection Certificate' issued, if any, in their favour as arbitrary and illegal and consequently to direct respondents 1 to 4 not to allow respondents 5 and 6 from proceeding further to construct and commission of retail out in R.S.No.30/14 of Marteru village, West Godavari District.

It seems, the 1st petitioner is a retail outlet dealer of Indo-Burma Petroleum Corporation at Marteru, West Godavari District. Petitioners 2 and 3 are villagers of Marteru. It is the case of the petitioners that respondents 5 and 6 are proposing to establish another retail outlet on Marteru-Palakollu Road in R.S.No.30/14 of Marteru village. The proposed outlet is very close to the outlet of the 1st petitioner, i.e., within 150 metres and also nearby the residential houses and Saibaba Temple. Petitioners 2 and 3 and also other villagers have raised objection for erection of petrol pump very close to the 1st petitioner's petrol pump. Since the area where the proposed outlet is to be located, is a residential area, there is likelihood of causing danger to the public and also cause pollution, if the outlet is permitted. No retail outlet of fuel filling station should be set up within the distance prescribed by

the Circulars. The Officers concerned have to issue 'No Objection Certificate' for obtaining the licences. Government of Andhra Pradesh gave instructions to the concerned Officers to follow and take necessary steps in accordance with the Circulars issued while granting permission. It seems, the said rule is given a go-bye by respondents 1 to 4 and allowed respondents 5 and 6 to establish a retail outlet nearby the 1st petitioner's petrol pump. Hence, this Writ Petition.

Separate counter affidavits have been filed by respondents 3 and 5 denying the allegations made by the petitioners. In the counter affidavit of the 5th respondent, it is asserted that the respondent-Corporation was operating the retail outlet in the same premises from the year 1957 to 2001. The Corporation has closed down the operations in the year 2001 and has restarted the retail outlet under a different name in the year 2004. It is also asserted that the 6th respondent submitted an application for grant of Form-B licence in the name and style of 'M/s. Devi Oils' to carry on business in MS and HSD at R.S.No.30/14 of Marteru village of Penumatra Mandal. The said application was considered and after conducting an enquiry, the licence has been issued. The petitioner being a rival trader cannot impugn the action of the respondent-Corporation in reopening the retail outlet in the year 2004. It is absolutely false to say that a new petrol bunk is sought to be erected in the said place. The retail outlet of the 5th respondent was there for about 50 years and it has only restarted its outlet.

The fact that the 5th respondent's retail outlet was established in the year 1957 and it was closed during 2001 and re-started in 2004 is not denied by the petitioner. In view of the averments made in the

counter affidavit filed by the 5th respondent, it cannot be said that the action of respondents 1 to 4 in allowing respondents 5 and 6 to establish a retail out in R.S.No.30/14 of Marteru village, West Godavari District is illegal. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

20-11-2006

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